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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/034,589	12/28/2001	Stephen T. Kuchn	S16.12-0128	1702
27367 7590 11/01/2007 WESTMAN CHAMPLIN & KELLY, P.A. SUITE 1400 900 SECOND AVENUE SOUTH MINNEAPOLIS, MN 55402-3319			EXAMINER ROANE, AARON F	
			ART UNIT 3739	PAPER NUMBER
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

ED

Office Action Summary	Application No. 10/034,589	Applicant(s) KUEHN ET AL.	
	Examiner Aaron Roane	Art Unit 3739	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 August 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3, 5, 6, 8-21 and 23 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3, 5, 6, 8-21 and 23 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 11 April 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION***Claim Objections***

Claims 1-3, 5, 6, 8-21 and 23 are objected to because of the following informalities: all pending dependent claims depend directly or indirectly on claim 1. Claim 1 recites a “holder body comprising a cavity for receiving a tip of a handle” in lines 2 and 3. However, the specification describes “Holder body 12 includes an opening 40 configured to receive tip 26. Opening 40 is shown including a number of flat side walls 42 which mate with sides 44 of tip 26,” see page 5, lines 24-27. Additionally, the specification does describe a cavity (15) within the handle coupling (14), see page 5, lines 7-23. It is believed by the examiner that “the cavity” of the holder body is in fact the “opening (40)” described in the specification and shown in the drawings. Additionally, “the cavity” in the present claims actually is replacing the/a “first opening” in the previous set of claims. This presents a non-uniform use of terms and the examiner strongly advises Applicant to use claim language that is consistent with the specification. In order to present an examination, the examiner interprets the “cavity” simply as a “first opening”, in keeping with the previous set of claims.

Appropriate correction is required.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-3, 5, 6, 8 and 10-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Garrison et al. (USPN 5,972,030) in view Parker (USPN 6,315,488).

Regarding claims 1, 12 and 15, Garrison et al. disclose an apparatus that can hold an annuloplasty ring including: a) a holder body (70 and all analogous counterparts in other embodiments) configured to hold an annuloplasty ring, the holder body comprising a cavity (82 and all analogous counterparts in other embodiments) for receiving a tip of a handle (28), see col. 14-18. Garrison et al. do also disclose a wide variety of coupling mechanisms for coupling the tool (10) to the holder body (70 and other analogous counterparts in other embodiments), see figures 1-34. Garrison et al. fail to disclose a handle coupling slidably engageable with the holder body having an opening that is alignable with the cavity such that the tip of the handle can be inserted through the opening and into a selected position within the cavity, the handle coupling being slidable relative to the holder body between a locked position, where a surface that defines the opening engages the tip of the handle, and an unlocked position, wherein the surface defining the opening does not engage the tip of the handle, such that the tip of the handle

is removable from the holder body to release the tip. Parker discloses a separable instrument/tool system and teaches providing the device (10) with a “snap-in handle assembly” comprising a holder body (40), the holder body having a cavity (50) for receiving a tip (20) of a handle; and a handle coupling in the form of a clip (60) having an opening (defined by 64) that is alignable with the cavity such that the tip of the handle can be inserted through the opening and into a selected position within the cavity, the handle coupling being slidable relative to the holder body between a locked position, where a surface that defines the opening engages the tip of the handle, and an unlocked position, wherein the surface defining the opening does not engage the tip of the handle, such that the tip of the handle is removable from the holder body to release the tip, as an alternative means of providing a quick release coupling mechanism see col. 2, line 44 through col. 4, line 62 and figures 1-6. Therefore at the time of the invention it would have been obvious to one of ordinary skill in the art to modify the invention of Garrison et al., as taught by Parker, to provide the holder body and a tip coupling that works in the manner defined by Parker and with the structural features detailed by Parker in order to provide an alternate/equivalent mechanism of quick release coupling the tool shaft to the holder body.

Regarding claims 2, 3, 5, 6 and 8, Garrison et al. in view of Parker disclose the claimed invention, see Parker col. 3 and 4 and figures 1-6.

Regarding claim 10, Garrison et al. in view of Parker disclose the claimed invention, see Parker col. 3 and 4 and figures 1-6.

Regarding claims 11 and 16, Garrison et al. in view of Parker further disclose the handle coupling is configured to slide within the holder body in a direction generally parallel with a plane of the holder body, see Parker col. 3 and 4 and figures 1-6.

Regarding claim 13, Garrison et al. in view of Parker further disclose a tip of the handle includes a protuberance configured to engage the handle coupling, see Parker col. 3 and 4 and figures 1-6, wherein Parker discloses the tip protuberance (24).

Regarding claims 17 and 20, Garrison et al. disclose a handle (10) comprising an elongate shaft (20), a gripping portion (28) that includes ribs (the ribbed or grooved button 30 section with the handle 28) and a tip (26) coupled to the other end of the elongate shaft (with respect to the gripping portion), see col. 12 and figures 1-4. It should be noted that the tip disclosed by Garrison et al. has many walls (flat surfaces), see figure 2.

Regarding claim 18, Garrison et al. further disclose flat portions various flat sections on 28) on the handle, see figure 1.

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Regarding claim 19, Garrison et al. further disclose a tip with walls (flat sides in 36 and 39 are located) that are aligned with some of the flat portions on the handle (the side flat surfaces 90° away from the flat portion with the button therein), see figures 1 and 2.

Regarding claim 21, Garrison et al. in view of Parker disclose the claimed invention. Parker discloses a tip (24) having tapered walls (25), see figures 3, 5 and 6.

Regarding claim 23, Garrison et al. in view of Parker disclose the claimed invention. Parker discloses the second opening in the handle coupling is slidable relative to the holder body between a lock position where the handle tip engages the second opening and an unlock position where the handle tip is released from the second opening and the handle coupling further comprises a release mechanism (a button, the raised circular pattern on 60, see figures 1-5) to move the handle coupling between the lock and unlock positions, thereby releasing the handle tip from the handle coupling, see col. 3 and 4 and figures 1-6.

Regarding claim 14, Garrison et al. in view of Parker further disclose the release mechanism comprises a button, see Parker col. 3 and 4 and figures 1-6, wherein Parker discloses the button (the raised circular pattern on 60, see figures 1-5).

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Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Garrison et al. (USPN 5,972,030) in view Parker (USPN 6,315,488) as applied to claim 1 above, and further in view of Carstens (USPN 4,863,201).

Regarding claim 9, Garrison et al. in view of Parker disclose the claimed invention except for the tapered opening. Carstens discloses a quick release coupling using relatively moved openings (openings in 36 and 94) and teaches providing opening 36 with tapered walls in order to receive a tapered tip (20), see col. 4-5 and figures 1-8. Therefore at the time of the invention it would have been obvious to one of ordinary skill in the art to modify the invention of Garrison et al. in view of Parker, as taught by Carstens, to provide a tapered opening in order to receive the tapered tip.

Response to Arguments

Applicant's arguments filed 8/13/2007 have been fully considered but they are not persuasive. The examiner will address each argument/remark in turn.

The examiner has noted the non-uniformity of the claim language with the specification relating the first opening versus the cavity in the holder body.

Applicant asserts (see page 5, last full paragraph) "Garrison does not disclose an opening on the handle coupling that is alignable with the cavity of the holder body such that the tip of a

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handle can be inserted through the opening and into a selected position within the cavity.” This is conceded by the examiner and is the impetus for the 103 rejection.

In the second full paragraph on page 6, Applicant argues that Parker is nonanalogous art, it has been held that a prior art reference must either be in the field of applicant’s endeavor or, if not, then be reasonably pertinent to the particular problem with which the applicant was concerned, in order to be relied upon as a basis for rejection of the claimed invention. See *In re Oetiker*, 977 F.2d 1443, 24 USPQ2d 1443 (Fed. Cir. 1992). In this case, both Garrison et al. and Parker disclose quick release mechanisms between an elongate handle and a device body. Additionally, Garrison et al. disclose a wide variety of quick release coupling mechanisms for coupling the tool (10) to the holder body (70 and other analogous counterparts in other embodiments), see figures 1-34.

Additionally, the test for obviousness is not whether the features of a secondary reference may be bodily incorporated into the structure of the primary reference; nor is it that the claimed invention must be expressly suggested in any one or all of the references. Rather, the test is what the combined teachings of the references would have suggested to those of ordinary skill in the art. In *re Keller*, 642 F. 2d 413, 425, 208 USPQ 871, 881 (CCPA 1981). In this regard, a conclusion of obviousness may be based on common knowledge and common sense of the person of ordinary skill in the art without any specific hint or suggestion in a particular reference. In *re Bozek*, 416 F. 2d 1385, 1390, 163 USPQ 545, 549 (CCPA 1969).

The rejections are reaffirmed and this action is made FINAL.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a).

Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Aaron Roane whose telephone number is (571) 272-4771. The examiner can normally be reached on Monday-Thursday 7AM-6PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Linda Dvorak can be reached on (571) 272-4764. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Aaron Roane
October 25, 2007

A.R.

Roy D. Gibson
ROY D. GIBSON
PRIMARY EXAMINER